

Ognjen Milanovic

March 15, 2023

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

RANDY LUNDY,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-22-699-F
)	
HL MOTOR GROUP, INC.,)	
HIGHLIGHT MOTOR FREIGHT USA,)	
INC., OLD REPUBLIC INSURANCE)	
COMPANY, AND)	
OGNJEN MILANOVIC,)	
)	
Defendants.)	
_____)	
)	
FARMERS MUTUAL FIRE)	
INSURANCE COMPANY OF OKARCHE,)	
)	
Plaintiff,)	
)	
vs.)	NO. CIV-22-752-F
)	
HL MOTOR GROUP, INC., AND)	
OGNJEN MILANOVIC,)	
)	
Defendants.)	
_____)	

VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
OGNJEN MILANOVIC
LOCATED IN BELGRADE, SERBIA
TAKEN ON BEHALF OF THE PLAINTIFFS
ON MARCH 15, 2023
REPORTED BY: JANA C. HAZELBAKER, CSR

1 Q Well, you lost consciousness after the
2 impact with the homes, didn't you?

3 A How would I remember when that would have
4 happened?

5 Q You don't know when you lost consciousness,
6 do you?

7 A No.

8 Q You could have lost consciousness after you
9 made impact with the houses, couldn't you?

10 A Again, I -- I -- I have no idea when that
11 was. All I know is I have no recollection of any of
12 that.

13 Q You could have gone to sleep at the wheel.
14 True statement?

15 A Say that again, please.

16 Q It is possible you --

17 MR. FRANZ: Objection; calls for
18 speculation.

19 MR. PIGNATO: There's another objection.

20 MR. FRANZ: I'll let him answer.

21 MR. PIGNATO: No, no, no, no. That's not a
22 form objection.

23 MR. FRANZ: Calls for speculation. I'm
24 instructing the witness to answer.

25 MR. PIGNATO: You're instructing him to

1 answer after you've just told him how to answer?

2 MR. FRANZ: I have not told him how to
3 answer. Counsel, just proceed with your deposition.

4 MR. PIGNATO: You're running a tab,
5 Counsel.

6 Q (By Mr. Pignato) Mr. Milanovic --

7 A Yes.

8 Q -- is it possible you fell asleep?

9 A I do not think so as there's strips that if
10 you fall asleep they -- they wake you.

11 In my opinion, no, I do not think so.

12 Q If you fall asleep, who wakes you?

13 A The strips on the road. They make a very
14 loud sound.

15 Q How heavy was your vehicle at the time of
16 this accident?

17 A I couldn't tell you. I don't recall.

18 Q Do you recall what you were hauling?

19 A No.

20 Q You don't recall the weight of the cargo?

21 A No. Every day it's different, so I would
22 not know, sir.

23 Q You told the officer that you were not
24 aware of any medical condition that have -- could
25 have caused or should have caused your

1 I've got here on my list of questions to ask you the
2 last thing you remember before leaving the roadway.

3 A It would be I was calculating where to take
4 a break.

5 Q How do you go about that calculation?

6 A By following the signs.

7 Q What do you mean by "calculating"? Are
8 you -- are you saying you're just looking for a good
9 place to pull over?

10 A Yeah.

11 Q Did you feel like you needed a break?

12 A I believe I had to take one. It was -- I
13 was running out of time legally.

14 Q Can you -- can you tell -- Ms. Butterworth
15 can put the log back up.

16 Can -- can you tell us what you mean by you
17 were "running out of time legally"?

18 A That's the best I can tell you. What I
19 believe was that at some point I had to stop.

20 Q So you -- you just remember there being --
21 you having some sense of urgency that your -- that
22 you needed to -- that you needed to take your break
23 soon?

24 A Well, I wouldn't say a sense of urgency,
25 like you always do that every day. Where am I going

1 for three minutes and 11 seconds?

2 A No, I have no idea. Say if there's a
3 traffic jam or something and I'm stopped, it would
4 switch my status without me doing it.

5 Q But you don't remember that, either. You
6 don't remember a traffic jam or a traffic problem or
7 anything like that?

8 A No, I don't recall, but that -- that
9 happens daily. Daily. Every -- almost every single
10 day.

11 Q All right. So -- so the last -- so you
12 have no recollection. You will not be able to
13 provide the Court or jury any evidence of why you
14 went off duty near Choctaw, Oklahoma, for three
15 minutes and 11 seconds?

16 A I don't recall.

17 Q Okay. But the last thing you remember is
18 sensing that it was -- it was time for a break and
19 you were calculating, when is the next kind of
20 opportunity by looking at the street signs?

21 A Yes.

22 Q Okay. And do you remember what your
23 thought process was in that regard, like what -- what
24 you were looking for? What is it about the road
25 signs that would tell you, "Oh, this would be a good

1 place for a break"?

2 A No. In general it's the same every day of
3 what I -- I will see. If it's a service area or a
4 stop 30 miles away or something like that.

5 Q All right. So you might be looking for
6 signage that indicated maybe lots of restaurants
7 or -- or something like that?

8 A Anything. There's always signs. And
9 generally you kind of have an idea. If it's next to
10 a city, there's always some, so, yeah, like that.

11 GPS also tells you on the screen, next area
12 40 miles or -- you know, you generally
13 cross-reference.

14 Q So you indicated that in the -- in the U.S.
15 you have a cutoff -- absolute cutoff at 11 hours of
16 driving per day, correct?

17 A Yes.

18 Q If you look up at the top of this log in
19 bold print on the right corner it says, "Ten hours,
20 18 minutes, 45 seconds." Agreed?

21 A Uh-huh.

22 Q Yes?

23 A Yes.

24 Q So is that what you're referring to? You
25 weren't looking just for your next break, you were

1 looking for your overnight break, right?

2 A I suppose so. I don't recall.

3 Q Well, you wanted to comply with the law,
4 right?

5 A Yeah.

6 Q So you weren't going to drive beyond 11
7 hours, were you?

8 A No.

9 Q Would you get some kind of alert or
10 anything in your vehicle? Would the computer take
11 over or would you get some kind of message if you
12 attempted to drive for more than 11 hours?

13 A Yes.

14 Q What does that sound like or look like?

15 A It just gives you a warning on the sign --
16 on the -- it gives you like a pop-up that you --

17 Q When do you -- when do you start getting
18 those pop-ups? Say if you've got an 11-hour limit in
19 the U.S. or a 13-hour limit in Canada, how long
20 before that cutoff do you start getting the alerts?

21 A I think one hour. I could be wrong, but it
22 gives you -- it gives you enough that you would know.

23 Q Okay. So you think -- now, looking at
24 this, if it's true what the log shows is that --
25 which is you drove for ten hours, 18 minutes and 45

1 seconds before the collision. You would have already
2 been given -- you would have already received some
3 alerts that it was time for you to break?

4 A Yeah, likely.

5 Q Okay.

6 A But you don't really need a -- you know,
7 obviously, before -- if you start, you know, at a
8 certain time you know when to finish at a certain
9 time. So --

10 Q When you start getting tired, right?

11 A Not really. Actually, it's more when the
12 time is coming up.

13 Q Well, what we do know from looking at this
14 log is that you started the day at 5:00 a.m. in Fancy
15 Creek, Illinois --

16 A Uh-huh.

17 Q -- and you crashed into these homes in
18 Yukon, Oklahoma, at 5:40 in the afternoon, correct?

19 A Yeah. Looks like it, yes.

20 Q Yeah. So you had 12 hours of hard driving
21 before this collision occurred. Agreed? Agreed?

22 A Yes. Yes.

23 Q And do you recall, before the truck left
24 the roadway, whether you were having any type of
25 unusual symptoms?

1 Q And I -- I detect in your answer that
2 you're -- you're guessing at that kind of based on
3 your norms?

4 A Yeah.

5 Q Yeah. So would you be able, for example,
6 to tell us how much water, how much juice, how much
7 Gatorade?

8 A No.

9 Q Regarding your practices, would -- would it
10 be your practice -- if you -- if you pulled over to
11 get something to drink, would -- would it be your
12 practice to buy, like, I don't know, a case of water,
13 a case of Gatorade, a --

14 A Yeah. Yeah. Always. Always. There's
15 some on the side, so, yeah, always. How many depends
16 on the day, you know. I remember that day was pretty
17 hot, so --

18 Q Okay. What -- and I predict you are not
19 wrong. August in Oklahoma, August in Joplin,
20 Missouri, I -- I predict it was really hot. But
21 what -- what causes you to remember that it was a
22 really hot day?

23 A It's down south and coming back from up
24 north, I would say that -- that it was pretty hot.

25 Q Is this the first time -- is this the first

1 time in a long while that you had --

2 A No.

3 Q -- ventured so far south?

4 A No. No.

5 Q Well, you previously drove for this other
6 company a year or so before you started for the --
7 the HL Motor Group.

8 A Uh-huh.

9 Q So had you driven down in this part of
10 the -- part of the world in the summer heat?

11 A Yeah, I have, but -- I have, but, you know,
12 you -- being from -- driving, I would say, from
13 Canada, you -- you always notice a difference,
14 obviously. And, you know, older equipment, it -- the
15 air conditioning is never as good as it should be,
16 so, you know, you notice the heat obviously.

17 Q Yeah. Do you remember thinking -- and this
18 was your first trip for HL Motor Group. Do you
19 remember thinking that the -- that the air
20 conditioning is not as good as it should be or you
21 would like it to be?

22 A Yes, but it's -- with any older equipment,
23 never is that -- what you want it to be.

24 Q Right. So -- so you -- would you consider
25 yourself a professional truck driver?

1 A Yeah.

2 Q And you understand that you're operating a
3 multi-ton piece of equipment that can cause serious
4 injury, damages and --

5 A Yes.

6 Q -- you know, death and mayhem, right?

7 A Obviously.

8 Q And so to the extent that it's hot, you're
9 in older equipment, maybe there's some air
10 conditioning issues, maybe you're not drinking as
11 much as you're supposed to, you understand that it's
12 your job to stay hydrated while you drive?

13 A Yes.

14 Q And that if it's not safe to drive because
15 you're dehydrated or because your equipment lacks
16 sufficient air conditioning, it's your job to pull
17 over until those situations can be remedied, right?

18 A I would agree with you there.

19 Q All right. You can't just keep driving if
20 you're dehydrated or hot and tired. You understand
21 that?

22 A Yes.

23 Q Because if you do, accidents like this can
24 happen. Agree?

25 A Agree.

1 Q And -- and was that a physician there at
2 the OU Medical Center where you were taken?

3 A I don't recall who it was. I talked to
4 many people and I was groggy, so, yeah, I don't
5 remember.

6 Q And then you also said, in response to one
7 of Mr. Pignato's questions, that -- that someone at
8 the hospital may have said you had a sudden loss of
9 consciousness, right?

10 Now, you would agree with me those are --
11 those are two different -- I suppose they could be
12 two different things, right?

13 A Yes.

14 Q If you're fatigued and dehydrated, I
15 suppose you could pass out and lose consciousness,
16 right?

17 A Yes.

18 Q But fatigue and dehydration would be
19 something within your control. You agree with that?

20 A Sure.

21 Q All right. If you're feeling dehydrated,
22 if you're feeling fatigued, it's time to pull over
23 and stop driving. Agree?

24 A Uh-huh.

25 Q Yes?

1 A Yes.

2 Q You shouldn't keep driving if you're
3 fatigued and dehydrated to the point that you lose
4 consciousness and run off the roadway, right?

5 A Correct.

6 Q And if that's what occurred here, you would
7 agree the accident would be your fault, and by
8 extension, the fault of HL Motor Group. Agree?

9 A I wouldn't -- I didn't feel that way so I
10 don't know how I can agree with that.

11 Q Well, when you say you didn't feel that
12 way, you've kind of said some different things here
13 today. You've -- you've indicated you don't remember
14 that day at all. Okay? You've said that many times
15 throughout the deposition.

16 You've also said that -- that -- that you
17 remember needing to take your break, that you felt
18 like you were looking for your next break stop,
19 right?

20 A Yes, that is -- I remember the -- wanting
21 to pick the break.

22 Other than that, meaning the day,
23 significant parts of it, meaning what happened there,
24 that, I do not remember.

25 Q Right. So --

1 A The only thing I remember is I was planning
2 on stopping at some point.

3 Q All right. But --

4 A That's the only thing I remember. I don't
5 remember being fatigued or thirsty or anything like
6 that. I really do not.

7 Q Okay. But you also don't remember the
8 reverse of that. You don't remember feeling, "Hey,
9 I'm not fatigued. I feel great. Life is good, I
10 could keep going for another 500 miles." You don't
11 remember feeling that, either, right?

12 A I have never felt that in my life, no.

13 Q Okay. Well, I'm just trying to figure out,
14 are -- are you saying you were not feeling fatigued
15 or you were not dehydrated, or are you simply saying
16 you don't recall feeling either of those things?

17 A I don't -- if I had felt that, which I have
18 in the past, I would have done something about it,
19 but I don't remember feeling that.

20 Q And the something you would have done about
21 it would be look for a place to pull over and take a
22 break, right?

23 A Yeah, there's always somewhere close by.

24 Q Okay. And, in fact, that's the last thing
25 you remember is looking for a place to pull over and